

House File 2383 - Enrolled

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1 1 HOUSE FILE 2383
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1 3 AN ACT
1 4 MAKING NONSUBSTANTIVE CORRECTIONS TO CERTAIN PROVISIONS
1 5 RELATING TO INSURANCE AND MAKING REPEALS.
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1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 8
1 9 Section 1. Section 507B.4, subsection 2, paragraph c, Code
1 10 Supplement 2007, is amended to read as follows:
1 11 c. STATEMENT OF CAPITAL AND SURPLUS. In the case of a
1 12 foreign company transacting the business of casualty insurance
1 13 in the state, or an officer, producer, or representative of
1 14 such a company, issuing or publishing an advertisement, public
1 15 announcement, sign, circular, or card that purports to
1 16 disclose the company's financial standing and fails to
1 17 exhibit: the capital actually paid in cash, and the amount of
1 18 net surplus of assets over all the company's liabilities
1 19 actually held and available for the payment of losses by fire
1 20 and for the protection of holders of fire policies; and the
1 21 amount of net surplus of assets over all liabilities in the
1 22 United States actually available for the payment of losses by
1 23 fire and held in the United States for the protection of
1 24 holders of fire policies in the United States, including in
1 25 such liabilities the fund reserved for reinsurance of
1 26 outstanding risks. The amounts stated for capital and net
1 27 surplus shall correspond with the latest verified statement
1 28 made by the company or association to the commissioner of
1 29 insurance. ~~Such a company shall not write, place, or cause to~~
~~1 30 be written or placed, a policy or contract for insurance on~~
~~1 31 property situated or located in this state except through a~~
~~1 32 licensed producer authorized to do business in this state.~~
1 33 Sec. 2. Section 510.21, unnumbered paragraph 2, Code
1 34 Supplement 2007, is amended to read as follows:
1 35 An application for registration shall be accompanied by a
2 1 filing fee of one hundred dollars. After notice and hearing,
2 2 the commissioner may impose any or all of the sanctions set
2 3 out in section 507B.7, upon finding that either the
2 4 third-party administrator violated any of the requirements of
2 5 ~~section 515.145 and sections 510.1A 510.12 through 510.20 and~~
2 6 this section, or the third-party administrator is not
2 7 competent, trustworthy, financially responsible, or of good
2 8 personal and business reputation.
2 9 Sec. 3. Section 515.1, Code 2007, is amended to read as
2 10 follows:
2 11 515.1 APPLICABILITY.
2 12 Corporations formed for the purpose of insurance, other
2 13 than life insurance, shall be governed by the provisions of
2 14 chapter 490, chapter 491, or chapter 504, except as modified
2 15 by the provisions of this chapter. The provisions of this
2 16 chapter relative to insurance companies shall apply to all
2 17 such companies, partnerships, associations, or individuals,
2 18 except those associations governed by the provisions of
2 19 chapter 518 or 518A, companies governed by the provisions of
2 20 chapter 508 or 514, societies governed by the provisions of
2 21 chapter 512B, and organizations governed by the provisions of
2 22 chapter 514B, whether incorporated or not.
2 23 Sec. 4. NEW SECTION. 515.11A TRANSFER OF STOCK.
2 24 Transfers of stock made by any stockholder or the
2 25 stockholder's legal representative shall be subject to the
2 26 provisions of chapters 491 and 492 relative to transfer of
2 27 shares, and to such restrictions as the directors shall
2 28 establish in their bylaws, except as hereinafter provided.
2 29 Sec. 5. Section 515.73, Code Supplement 2007, is amended
2 30 to read as follows:
2 31 515.73 ADDITIONAL STATEMENTS == IMPAIRED CAPITAL.
2 32 Such Any company desiring to transact the business of
2 33 insurance under this chapter shall also file with the
2 34 commissioner a certified copy of its charter or deed of
2 35 settlement, together with a statement under oath of the
3 1 president or vice president or other chief officer and the
3 2 secretary of the company for which they may act, stating the
3 3 name of the company, the place where located, the amount of

3 4 its capital, with a detailed statement of the facts and items
3 5 required from companies organized under the laws of this
3 6 state, and a copy of the last annual report, if any, made
3 7 under any law of the state by which such company was
3 8 incorporated; and no agent shall be allowed to transact
3 9 business for any company whose capital is impaired by
3 10 liabilities as specified in this chapter to the extent of
3 11 twenty percent thereof, while such deficiency shall continue.

3 12 Sec. 6. Section 515.120, Code Supplement 2007, is amended
3 13 to read as follows:

3 14 515.120 BUSINESS WITH NONADMITTED INSURERS.

3 15 This chapter does not prevent a licensed resident or
3 16 nonresident ~~agent producer~~ of this state, qualified to write
3 17 excess and surplus lines insurance, from procuring insurance
3 18 in certain nonadmitted insurers if such insurance is
3 19 restricted to the type and kind of insurance authorized by
3 20 this chapter, excluding insurance authorized under section
3 21 515.48, subsection 5, paragraph "a", and the ~~agent producer~~
3 22 makes oath to the commissioner of insurance in the form
3 23 prescribed by the commissioner that the ~~agent producer~~ has
3 24 made diligent effort to place the insurance in authorized
3 25 insurers and has either exhausted the capacity of all
3 26 authorized insurers or has been unable to obtain the desired
3 27 insurance in insurers licensed to transact business in this
3 28 state. The procuring of a contract of insurance in a
3 29 nonadmitted insurer makes the insurer liable for, and the
3 30 ~~agent producer~~ shall pay, the taxes on the premiums as if the
3 31 insurer were duly authorized to transact business in the
3 32 state. A sworn report of all business transacted by ~~agents~~
3 33 ~~producers~~ of this state in nonadmitted insurers shall be made
3 34 to the commissioner of insurance on or before March 1 of each
3 35 year for the preceding calendar year, on the form required by
4 1 the commissioner of insurance. The report shall be
4 2 accompanied by a remittance to cover the taxes on the
4 3 premiums. ~~An agent~~ A producer who makes the oath, pays the
4 4 taxes on the premiums, and files the report has not written
4 5 such contracts of insurance unlawfully, and is not personally
4 6 liable for the contracts.

4 7 Sec. 7. Section 515.121, Code Supplement 2007, is amended
4 8 to read as follows:

4 9 515.121 ADMINISTRATIVE PENALTY.

4 10 1. An excess and surplus lines insurance ~~agent that~~
4 11 ~~producer who~~ fails to timely file the report required in
4 12 section 515.120 is in violation of this section and shall pay
4 13 an administrative penalty of five hundred dollars to the
4 14 treasurer of state for deposit in the general fund of the
4 15 state as provided in section 505.7.

4 16 2. The commissioner shall refuse to renew the license of
4 17 ~~an agent that~~ a producer who fails to comply with the
4 18 provisions of section 515.120 and this section and the ~~agent's~~
4 19 ~~producer's~~ right to transact new business in this state shall
4 20 immediately cease until the ~~agent producer~~ has so complied.

4 21 3. The commissioner may give notice to ~~an agent a producer~~
4 22 that the ~~agent producer~~ has not timely filed the report
4 23 required under section 515.120 and is in violation of this
4 24 section. If the ~~agent producer~~ fails to file the required
4 25 report within ten days of the date of the notice, the ~~agent~~
4 26 ~~producer~~ shall pay an additional administrative penalty of one
4 27 hundred dollars for each day that the failure continues to the
4 28 treasurer of state for deposit in the general fund of the
4 29 state as provided in section 505.7.

4 30 Sec. 8. Section 515.122, subsection 1, Code Supplement
4 31 2007, is amended to read as follows:

4 32 1. An insurance producer shall not knowingly place
4 33 insurance, either directly or through an intermediary broker,
4 34 ~~in~~ with insurers who are insolvent or unsound financially; and
4 35 shall not place or renew insurance with nonadmitted insurers
5 1 found by the commissioner of insurance to have failed or
5 2 refused to furnish, in the manner provided in subsection 2,
5 3 information reasonably showing the ability or willingness of
5 4 the insurers to satisfy obligations undertaken with respect to
5 5 insurance issued by them.

5 6 Sec. 9. Section 515.125, Code Supplement 2007, is amended
5 7 to read as follows:

5 8 515.125 FORFEITURE OF POLICIES == NOTICE.

5 9 1. ~~A policy or contract of insurance, unless~~ Unless
5 10 otherwise provided in section 515.127 or 515.128, a policy or
5 11 contract of insurance provided for in this chapter shall not
5 12 be forfeited, suspended, or canceled except by notice to the
5 13 insured as provided in this chapter. A notice of cancellation
5 14 is not effective unless mailed or delivered by the insurer to

5 15 the named insured at least thirty days before the effective
5 16 date of cancellation, or, where cancellation is for nonpayment
5 17 of a premium, assessment, or installment provided for in the
5 18 policy, or in a note or contract for the payment thereof, at
5 19 least ten days prior to the date of cancellation. The notice
5 20 may be made in person, or by sending by mail a letter
5 21 addressed to the insured at the insured's address as given in
5 22 or upon the policy, anything in the policy, application, or a
5 23 separate agreement to the contrary notwithstanding.

5 24 2. An insurer shall not fail to renew a policy except by
5 25 notice to the insured as provided in this chapter. A notice
5 26 of intention not to renew is not effective unless mailed or
5 27 delivered by the insurer to the named insured at least thirty
5 28 days prior to the expiration date of the policy. A notice of
5 29 intention not to renew is not required if the insured is
5 30 transferred from an insurer to an affiliate for future
5 31 coverage as a result of a merger, acquisition, or company
5 32 restructuring and if the transfer results in the same or
5 33 broader coverage.

5 34 3. If the reason does not accompany the notice of
5 35 cancellation or nonrenewal, the insurer shall, upon receipt of
6 1 a timely request by the named insured, state in writing the
6 2 reason for cancellation or nonrenewal.

6 3 Sec. 10. Section 515.129, subsection 3, unnumbered
6 4 paragraph 1, Code Supplement 2007, is amended to read as
6 5 follows:

6 6 An umbrella or excess insurance policy which has been
6 7 renewed or which has been in effect for sixty or more days
6 8 shall not be canceled by the insurer, except as provided in
6 9 section 515.127, subsections 2 and 3, ~~except by unless~~ notice
6 10 has been mailed or delivered to the insured as required by
6 11 this section or unless at least one of the following
6 12 conditions occurs:

6 13 Sec. 11. Section 515.130, Code Supplement 2007, is amended
6 14 to read as follows:

6 15 515.130 SHORT RATES.

6 16 The commissioner of insurance shall prepare and promulgate
6 17 tables of the short rates provided for in ~~sections 515.125 and~~
6 18 ~~515.126~~ section 515.132, for the various kinds and classes of
6 19 insurance governed by the provisions of this chapter, which,
6 20 when promulgated, shall be for the guidance of all companies
6 21 covered in this chapter and shall be the rate to be given in
6 22 any notice therein required. No company shall discriminate
6 23 unfairly between like assureds in the rate or rates so
6 24 provided.

6 25 Sec. 12. Section 515.138, Code Supplement 2007, is amended
6 26 to read as follows:

6 27 515.138 NOTICE OF LOSS OF PERSONAL PROPERTY BY HAIL.

6 28 In case of loss or damage to growing crops by hail, notice
6 29 of such loss or damage must be given to the company by the
6 30 insured by mailing a certified mail letter within ten days
6 31 from the time such loss or damage occurs.

6 32 Sec. 13. Section 515.141, subsection 1, Code Supplement
6 33 2007, is amended to read as follows:

6 34 1. The commissioner of insurance is authorized to issue a
6 35 subpoena for examination under oath, to any officer, agent, or
7 1 employee of any company suspected of violating any of the
7 2 provisions of section 515.140.

7 3 Sec. 14. Section 515.142, Code Supplement 2007, is amended
7 4 to read as follows:

7 5 515.142 TRANSFERS PENDING INVESTIGATION.

7 6 Any transfer of the stock of any company organized under
7 7 this chapter, made pending any investigation ~~above required~~,
7 8 shall not release the party making the transfer from any
7 9 liability for losses which may have accrued previous to such
7 10 transfer.

7 11 Sec. 15. Section 515.145, Code Supplement 2007, is amended
7 12 to read as follows:

7 13 515.145 REVOCATION OF AUTHORITY.

7 14 If upon any examination, ~~and that of or upon information~~
7 15 ~~obtained from any other~~ witness produced ~~and or~~ examined, the
7 16 commissioner determines that a company has violated section
7 17 515.140, or if any officer, agent, or employee fails to appear
7 18 or submit to examination after receiving a subpoena, the
7 19 commissioner shall promptly issue an order revoking the
7 20 authority of the company to transact business within this
7 21 state, and the company shall not be permitted to do the
7 22 business of insurance in this state for one year.

7 23 Sec. 16. Section 515.146, Code Supplement 2007, is amended
7 24 to read as follows:

7 25 515.146 CERTIFICATE REFUSED == ADMINISTRATIVE PENALTY.

7 26 The commissioner of insurance shall withhold the
7 27 commissioner's certificate or permission of authority to do
7 28 business from a company neglecting or failing to comply with
7 29 this chapter. In addition, a company organized or authorized
7 30 under this chapter which fails to file the annual statement
7 31 referred to in section 515.63 in the time required shall pay
7 32 and forfeit an administrative penalty in an amount of five
7 33 hundred dollars to be collected in the name of the state for
7 34 deposit in the general fund of the state as provided in
7 35 section 505.7. The company's right to transact further new
8 1 business in this state shall immediately cease until the
8 2 company has fully complied with this chapter. The
8 3 commissioner may give notice to a company which has failed to
8 4 file within the time required that the company is in violation
8 5 of this section and, if the company fails to file the evidence
8 6 of investment and statement within ten days of the date of the
8 7 notice, the company shall forfeit and pay the additional sum
8 8 of one hundred dollars for each day the failure continues, to
8 9 be paid to the treasurer of state for deposit in the general
8 10 fund of the state as provided in section 505.7.

8 11 Sec. 17. Section 515.153, Code Supplement 2007, is amended
8 12 to read as follows:

8 13 515.153 INCRIMINATION.

8 14 The statements and declarations made or testimony given by
8 15 any ~~such~~ officer, agent, or employee in the investigation
8 16 before the commissioner of insurance, or upon the hearing on
8 17 the petition for judicial review, as provided in sections
8 18 515.141, 515.145, and 515.152, shall not be used against the
8 19 person making the same in any criminal prosecution against the
8 20 person.

8 21 Sec. 18. Sections 515.62 and 515.64, Code 2007, are
8 22 repealed.

8 23 Sec. 19. Section 515.107, Code Supplement 2007, is
8 24 repealed.

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PATRICK J. MURPHY
Speaker of the House

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JOHN P. KIBBIE
President of the Senate

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9 1 I hereby certify that this bill originated in the House and

9 2 is known as House File 2383, Eighty-second General Assembly.

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MARK BRANDSGARD
Chief Clerk of the House

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CHESTER J. CULVER
Governor